

**TELFORD TRUSTEE NO. 1 LIMITED AND
TELFORD TRUSTEE NO. 2 LIMITED**

**COMMENTS ON ADDITIONAL MATERIALS SUBMITTED ON BEHALF OF
ASDA STORES LIMITED IN CONNECTION WITH ITS PLANNING APPLICATION FOR THE
REDEVELOPMENT OF THE CIVIC OFFICES SITE AT WEST SOUTHWATER
(APPLICATION REFERENCE NO. W2009/0915) AND THE PLANNING OFFICERS'
REPORT TO THE PLANS BOARD MEETING OF TELFORD AND WREKIN COUNCIL
ON 16 DECEMBER 2009**

1. INTRODUCTION

- 1.1 These comments supplement the Trustees' initial objections to the Asda planning application as set out in Drivers Jonas' letter of 16 November 2009 and Nabarro LLP's letter of 11 December 2009. They comment on further information submitted on behalf of Asda and on the officers' report to the Plans Board meeting on 16 December 2009 ("**the Officers' Report**").
- 1.2 The Officers' Report relies extensively upon a letter from RPS dated 3 December 2009 which the Trustees had not seen until 9 December 2009. RPS's letter seeks to rebut the Trustees' initial representations and it is unacceptable that the Trustees were not appraised of its existence, let alone contents. The RPS letter is replete with erroneous assertions and false argument but appears to have been taken at face value. The assertions and also the arguments in RPS's letter have been adopted by TWC as their own, often down to the very wording. We therefore deal with the letter first as it underpins the Officers' Report.

2. LETTER FROM RPS TO TWC DATED 3 DECEMBER 2009

Lack of proper consultation

- 2.1 The existence of RPS's letter to Telford & Wrekin Council ("**TWC**") of 3 December 2009 only became apparent to the Trustees on 9 December 2009 when the Officers' Report was published. The illustrations of RPS upon which so much reliance is placed have still not been provided to the Trustees.
- 2.2 It is clear that this raises issues as to procedural fairness as, in effect, TWC's approach sought to deprive the Trustees of the ability to reply to RPS's comments. This is further evidence of TWC having fast tracked the consideration of Asda's application at the cost of proper consultation with key stakeholders and the public.
- 2.3 For the reasons set out below the RPS letter of 3 December 2009 is inaccurate in a number of key respects and entirely misleading in relation to some of the key material considerations which TWC must consider in its determination of the Asda planning application.

Introduction

- 2.4 RPS in their letter state that the Drivers Jonas letter of 16 November 2009 proceeds under the "*fundamental misconception*" that the Asda application is for a "*replacement*" supermarket.

- 2.5 The allegation that this represents a "*fundamental misconception*" is plainly inaccurate and wholly disingenuous given that the application form for the Asda planning application in response to Question 3 "*Description of the Proposal*" states in terms that the application is for a "*Replacement **Asda** Supermarket ...*" (our emphasis). The application form was completed by RPS and Mr. Waldren who is the signatory to RPS's letter of 3 December 2009 is stated at the agent.
- 2.6 The Drivers Jonas letter of 16 December 2009 was therefore completely accurate in this respect and carefully used the exact words used on Asda's planning application form. For RPS now to allege that this is a "*fundamental misconception*" therefore is mistaken unless Asda has also amended the description of development for which it is applied. There has been no public notification that that is the case.
- 2.7 If what RPS mean is that the practical consequence of the relocation of Asda to the Civic Offices site would be that the existing Asda unit would be reoccupied by a replacement supermarket operator, able to act as a northern anchor to the centre, then as previously pointed out in the Trustees' representations, there is no likelihood of this happening. The commercial reality is that alternative operators would not wish to take Asda's unit to trade in competition with a new Asda on the Civic Offices site which is an unconstrained edge-of-centre site with independent car parking. There has been no independent evidence submitted by Asda or RPS to support the suggestion that the existing Asda unit would be reoccupied, for example, by way of letters of intent or commitment from alternative operators.
- 2.8 In respect of the potential full reoccupation of the existing Asda unit, the Officers' Report to is also contradictory and inadequate in its analysis. With reference to RPS's assessment the report says that it "*has to assume that the existing Asda store within the Shopping Centre is re-occupied for it to be realistic in terms of impact on the town centre*" and proceeds to treat this as a given in reviewing the retail impact. Earlier in the report, however, it recognizes that there is an element of doubt by stating that there "*may also be the prospect of Asda's existing store at the shopping centre being reoccupied by another convenience operator*" (our emphasis). Even if TWC does not accept the reality of the position as presented by the Trustees' objections (that reoccupation by another convenience operator is highly unlikely) the fact that the report recognizes that there is an element of doubt as to this means that, in order to assess a potential "*worst case*" impact on the town centre, TWC and Asda should have carried out an assessment on the basis that no such replacement operator would be forthcoming.
- 2.9 The fact that RPS has not assessed this scenario means that the likely significant environmental effects of the proposed Asda development have not been fully assessed or properly taken into account.
- 2.10 Further, although erroneous an argument that the new Asda is "in addition" to the existing Asda and/or the Red Oak Car Park scheme does not conform with the "town centre first" policy that underpins the sequential test in PPS6. Unless Asda can demonstrate that there is no sequentially preferable site it cannot obtain planning permission for the proposed Civic Offices site. For the reasons set out below Asda is unable to demonstrate this key fact.

Sequential approach

- 2.11 Paragraph 3.19 of PPS6 states that, where it is argued, as Asda do, that otherwise sequentially preferable sites are not appropriate for the particular development proposed the applicant should provide "*clear evidence to demonstrate why such sites are not practicable alternatives*" in terms of availability, suitability and viability.
- 2.12 No such evidence has been provided by Asda, RPS or Marsh and Baxter Properties Limited. Notwithstanding this, our comments are set out below.
- 2.13 As explained in Drivers Jonas' letter of 16 December 2009, from the date that Asda decided to tender for the Civic Offices site in Autumn 2008 it must have realized that, in order to stand any prospect of satisfying the sequential approach, it would have to allege that the development of sequentially preferable options, including the Red Oak Car Park site, would be unviable.
- 2.14 Whilst TWC has to date refused to release details of the contract between Asda and TWC for the acquisition of the site, it can be assumed also that not to question the viability of more central options at this stage would also place Asda potentially in breach of contract with TWC in its capacity as landowner.
- 2.15 In these circumstances if TWC in its capacity as local planning authority were acting in a reasonable manner then, in order to carry out the thorough assessment using clear evidence in relation to the issue of viability as is required by PPS6 it would not merely rely on what only amount to assertions by Asda's commercial agents and it would have carried out an independent and thorough review of the viability arguments with input from the Trustees as well as Asda and its team with a view to reaching an independent and clear conclusion. This approach is required by PPS6 in respect of all applications which require the sequential approach to be applied. In this case where TWC is the landowner as well as the local planning authority (and payment to TWC) the need for TWC's decision-making process to be seen as transparent, open and comprehensive is heightened.
- 2.16 Against this background we note that the representations submitted by RPS and Marsh and Baxter Properties Limited have, in effect, been transposed without challenge, scrutiny or assessment into the Officers' Report. This is clearly inadequate and deeply regrettable. The fact that this has been done without even asking the Trustees to comment on those representations before the officers' recommendation was settled is also contrary to the interests of natural justice and fairness and raises significant concerns about there being an apparent bias in the approach adopted by the planning officers.
- 2.17 Against that background the Trustees strongly dispute the bulk of the information which has been submitted on the question of the sequential approach and in particular viability with the representations from RPS and Marsh and Baxter Properties Limited.
- 2.18 RPS refer to the Marsh and Baxter Properties Limited's letter of 1 December 2009 and state that there would be an impact of about 80% of trade during the construction of the Red Oak Car Park option. This is clearly a very significant over-estimate. The planning application submitted by the Trustees for the redevelopment of the Red Oak Car Park on 11 December 2009 demonstrates that its construction can be phased to minimize disruption to the existing Asda unit and that sufficient car parking would be available throughout the construction period for Asda's customers. The officers were aware at the time of writing their report that the Trustees were about to submit an application for the Red Oak car park and at no time did the officers seek information about the practicalities of developing a supermarket on the car park site. The officers have merely transposed, without any analysis, the reference to the

80% figure into the report to the Plans Board. This is another example of wholly erroneous assertions made by Asda's commercial agents being taken by TWC as being accurate evidence, without assessment or further consultation with the Trustees.

- 2.19 Marsh and Baxter Properties Limited's letter also refers to estimated construction costs for the Red Oak Car Park option. They refer to figures which TWC has not asked the Trustees to comment on despite the fact that clearly the Trustees would have a better indication of the likely build costs than Marsh and Baxter Properties Limited, and said that they "*cannot see the justification financially to invest this scale of money in a new store that does not have a rent that is higher than that of the passing rent on the old store*". No evidence has been submitted by Asda or assessed by TWC to support these assertions which the Trustees dispute.
- 2.20 In addition the reference to likely build costs also raises the question of how those build costs referred to by Marsh and Baxter Properties Limited compare to the acquisition and build costs for Asda in relation to the Civic Offices site. Without that information it is impossible to comment further but in the event that the acquisition and build costs for the Civic Offices site are higher (as the Trustees would expect) it again raises the question of what weight, if any, can be placed on Marsh and Baxter Properties Limited's representations. It is clear from the Trustees' planning application for the Red Oak Car Park that a store of equivalent size with equivalent car parking can be provided within the existing primary shopping area ("PSA") and the Trustees are satisfied that such a proposal is commercially viable.
- 2.21 Marsh and Baxter Properties Limited's letter of 1 December 2009 also makes the remarkable assertion that in any event Asda would seek to prevent development of the Red Oak Car Park until Asda's lease ends. Again this assertion is effectively reflected in the Officers' Report when it says that "*Taking the larger Red Oak car park site first, there appears to be a major constraint to the development of this site in that Asda would be able to block the early development at Red Oak*" (our emphasis). For TWC to adopt this approach is wholly unreasonable and in direct conflict with the approach recommended by the Government in respect of town centre development. In effect what TWC is doing is taking into account a threat made by a major food store operator that unless it is granted planning permission for, in the words of the planning application form, a "*replacement*" store at an unsustainable and sequentially inferior out-of-centre site, then it will not allow a development to take place within a site which is sequentially preferable and within an existing PSA in accordance with Government policy;
- 2.22 It would be perverse and irrational for TWC to reach a decision on this basis. In effect if this approach is adopted it would allow supermarket operators to circumvent Government policy by merely asserting that in the words of the Officers' Report they would "*block*" town centre development including sites otherwise available for themselves.
- 2.23 The truth of the matter is that had TWC not marketed the Civic Offices site and reached agreement with Asda as the selected operator, then Asda and the Trustees would have continued their negotiations and there would have been every prospect of a commercial agreement being reached which is acceptable to both parties.
- 2.24 Marsh and Baxter Properties Limited's letter of 1 December 2009 also makes an unsubstantiated and unjustified reference to a penalty in sales of about 15% when comparing the new proposals for the Red Oak Car Park and the existing Asda unit. The

Trustees dispute that figure and it also needs to be borne in mind that that assessment cannot have been carried out on the basis of the proposals which are now the subject of the Trustees' planning application for the Red Oak Car Park. As a result clearly no weight can legitimately be attached to those statements.

- 2.25 Marsh and Baxter Properties Limited's letter of 25 November 2009 makes no new substantive comments and all of the points raised have already been addressed in Drivers Jonas' objections of 16 November 2009. In particular, whilst Marsh and Baxter Properties Limited assert on behalf of Asda that there have been various board meetings and investment analysis carried out, no information or evidence has been provided as to the reports to, or decisions made by, those board meetings and again no weight can be legitimately applied to those representations by TWC without the type of thorough and independent assessment to which we refer above and which is currently lacking in the report to the Plans Board meeting on 16 December 2009.
- 2.26 The RPS Retail Impact Assessment highlights in Table 5 of Appendix 2 that the existing Asda store, as at 2007 had a turnover of £39.7m. Whilst it is not clear from the RPS study we assume this figure accounts only for the sale of convenience goods. RPS clarify that the existing store has a sales area of 4,274 sq m. RPS do not highlight the amount of floorspace dedicated to the sale of convenience goods, so we have assumed the company average figure used by Verdict of 56% - i.e. 2,393 sq m. This suggests a sales density of £16,590 per sq m. This figure is significantly higher (approximately 15%) than the average Asda company sales density which Verdict identify as £14,115 per sq m. RPS claim however, that the Asda store is trading 20% below benchmark figures, however, they have failed to provide any evidence to support this claim. While the discrepancy was noticed by officers, it has not been explored further or otherwise explained.
- 2.27 RPS states that Asda "welcomes" the development of the Red Oak Car Park for a food store providing its construction does not conflict with Asda's tenancy period for their existing store. TWC should, however, be under no illusions. There is no realistic prospect of the Red Oak Car Park option being occupied by an alternative supermarket operator or the existing Asda unit being reoccupied by such an operator in the event that planning permission is granted for the Asda application on the Civic Offices site. The position is that it is highly unlikely that this would happen and it is precisely for this reason that the Government's policy is not to allow development on unconstrained edge or out-of-centre sites when in-centre sites exist. TWC's approach on this issue is wholly irrational. Even if it did not accept the Trustees' clear representations that these development scenarios are highly unlikely in the event that Asda is granted permission at the Civic Offices site, it must, if acting reasonably, acknowledge that this is a potential outcome. In that event, it is a requirement for TWC to consider the potential impacts.
- 2.28 RPS also refers to the Ash Grey Car Park which is clearly, for the reasons set out in the Trustees' representations, available, suitable and viable for supermarket development. The Trustees have selected the Red Oak Car Park option for the purposes of making a planning application to TWC as this represents the best option but TWC should be aware that it is not the only which is available.
- 2.29 In relation to the Central Southwater site referred to in Drivers Jonas' letter of 16 November 2009, RPS make the remarkable assertion that the Civic Offices site is better located. In support of this it makes the assertion that the bridge link, which exists over the box road into the Central Southwater site, closes every evening. The simple answer to this is that this

need not be the case and that the bridge link could be open for a 24 hour period, for example in order to promote the night time economy within the shopping centre, which is TWC's stated policy to enhance and develop its night time economy.

- 2.30 In seeking to dismiss the Central Southwater site, RPS are reduced to having to make unjustifiable comments about Drivers Jonas being "*preoccupied*" with the nature of the existing linkages whereas the appropriate factor to consider is the nature of linkages that are proposed as part of the development. The fact is that the definition of "*Edge-of-centre*" at Table 2 of Annex A of PPS6 expressly refers "*existing*" pedestrian routes. RPS seek to discount these but the fact is that the Central Southwater site benefits from direct, convenient and safe existing pedestrian connections with the PSA, whereas the existing position in respect of the Civic Offices site is that barriers exist, for example the need to cross a major road or a car park. Indeed this is recognised in the Planning Statement prepared by RPS which states that the Civic Offices site is currently separated from the primary retail area of the town centre and that Malinsgate/Coach Central currently forms "*something of a barrier as pedestrian linkage across this road could be better*".
- 2.31 RPS in their letter refer to the provision of a large scale development to act as a western anchor to the Southwater area and refer to the "*regeneration plans*" for the Southwater area. No weight should be attached to these representations as the concept of a western retail anchor is only referred to in the Submission Draft of the Central Telford Area Action Plan ("**CTAAP**") and has been the subject of significant objection, not just from the Trustees, but other key stakeholders within the town centre. This reference is also in conflict with the statements later on in RPS's letter of 3 December 2009 that the proposals stand to be determined outside of CTAAP.

Retail Impact

- 2.32 It is important to confirm that, contrary to RPS letter, Drivers Jonas have absolutely not confused 'the additional store argument' which RPS refer to. In accordance with PPS6, it is absolutely correct that a Retail Impact Assessment is submitted by Asda in support of a planning application for retail development in an edge-of-centre location. However, we seek to highlight that the RPS Retail Impact Assessment does not recognise that the greatest impact that would accrue from this application being approved, would be that it would not be possible to attract another occupier to anchor the north of the town centre for the reasons set out above.
- 2.33 Asda indicates that it wishes to move out of the PSA for operational and car parking reasons and claim that the PSA cannot satisfy its requirements. Moreover, Asda claim that the current store hampers trading whereas the new store would actually attract trade from out of town stores. Quite apart from the current market in these circumstances, it is particularly unlikely that an alternative supermarket operator could be found to occupy the existing Asda unit in the event of Asda succeeding in its application for the Civic Offices site. RPS's assertion that the only "robust" way to proceed in the assessment of retail impact is to assume that a "*higher turnover occupier is in occupation of that unit*" is irrational.
- 2.34 As the local planning authority it is TWC's responsibility to assess retail impact on a reasonable basis taking into account reasonable assumptions as to the likely effects that the grant of planning permission on the Civic Offices would have. Asda has asserted that a replacement occupier would be willing to occupy that unit immediately upon its vacation by Asda in 2014 but that is clearly an unjustifiable assumption and ignores the reality that there

would be a significant impact on investor and occupier confidence in the existing shopping centre in those circumstances, which makes such re-occupation highly unlikely.

- 2.35 The RPS Retail Assessment assumes that the existing Asda unit is taken over by one of the big four operators (Sainsbury, Morrison, Tesco, Asda). Sainsbury's are located at Forge Retail Park only 500m from the site. Asda would not occupy two stores. It is the Trustees view that there is very limited likelihood in commercial terms of attracting a second major supermarket operator to Telford irrespective of the amount of available expenditure. It is the Trustees' view that the 'additional store argument' does not warrant detailed consideration. It is considered that no such operator would be available to anchor this part of the town centre.

Vacancies

- 2.36 RPS's representations on the question of vacancies are misleading and irreconcilable with the Government's clear policy guidance on assessing the health of existing centres.
- 2.37 RPS state that it is a "*very unusual premise*" to examine vacancy rates taking into account short term let retail floorspace. Paragraph 4.4 of Chapter 4 of PPS6 "Measuring Vitality and Viability: Health Checks", however, expressly states that retailer representation in terms of the types of retailer at a particular centre will be one of a number of key indicators of the health of a centre. Clearly the type of retailers who occupy premises on short term lets have a different commercial profile and strength to permanent occupiers. The very significant recent increase in the representation of short term occupiers at the centre is clearly a significant concern.
- 2.38 Paragraph 4.4 of PPS6 also recommends that local authorities should regularly collect information, preferably in co-operation with the private sector to measure the vitality and viability of town centres. TWC has not done this and the Officers' Report totally fails to deal with this issue and merely states that Asda have provided a "*useful health check*" which appears to have been accepted without any independent analysis or consultation with the Trustees. This again raises serious concerns about the impartiality of the approach adopted by TWC in its capacity as local planning authority in assessing Asda's proposal. It reveals a complete lack of scrutiny of the case advanced by Asda or any attempt by TWC to independently verify that information by having complied with the requirements of paragraph 4.4 of PPS6 to carry out regular information gathering on the vitality and viability of the town centre in co-operation with the private sector, which in this case would include the Trustees as the owner of the Shopping Centre.
- 2.39 Under this heading RPS's letter also refers to the "*potential vacancy*" of the existing Asda store and states that this will not occur until 2014. Again this is wholly at odds with the methodology adopted by RPS in the Retail Impact Assessment submitted with the Asda application and recognizes that there is the potential for a vacancy to exist with the existing unit. As the Trustees have stated this is a highly likely scenario and it is likely that that vacancy would continue certainly in terms of potential reoccupation by a supermarket operator in the medium to long-term. This is a significant omission from the Retail Impact Assessment submitted with the Asda application and reveals the inadequate assessment which has been carried out. It is clear from the statement, however, that even RPS concede that a vacancy of that unit is a potential outcome and the fact that TWC has not considered the application on that basis or required any assessment work of that scenario is a fundamental defect in its approach.

Quantitative need

- 2.40 It is the Trustees' view that the WYG Retail Study should not be considered a robust evidence base. Paragraph 3.10 of PPS6 states that '*A needs assessment prepared in support of a planning application should, wherever possible, be based on the assessment carried out for the development plan document, updated as required*'. The WYG Study does not provide the evidence base for a sound 'Development Plan Document'. On this basis we consider that in the absence of an up-to-date robust retail assessment, we would suggest that RPS should have undertaken a new independent retail assessment specific to the development in order to ensure that its validity was not brought into question in light of the concerns with regard to CTAAP.
- 2.41 The Trustees maintain their objection to the catchment area used to support the RPS retail assessment. The 10 and 15 minute drive time isochromes which RPS refer to have not been made available to the Trustees for comment, therefore we cannot comment on any correlation which RPS claim with their Primary Catchment Area. We would also like to clarify that the location of stores within the catchment area have not been properly identified. It is standard practice to identify the location of foodstores, so that firm judgements can be made upon where 'headroom' capacity identified should be re-apportioned and whether that would be realistic.
- 2.42 The Trustees maintain their objection to the extent of the amount of expenditure identified by WYG, as it has been formulated as the evidence base to a Development Plan Document which has been suspended by TWC following the Inspector's criticisms.
- 2.43 As discussed above, the RPS retail study identifies that the existing store is over-trading whereas Asda claim it to be under-trading by 20%. The RPS justification is that '*household shopper surveys can sometimes produce erroneous results and in this instance while the survey turnover does suggest a turnover that is above the company average level, Asda themselves have informed us that their store is in fact trading significantly below the implied levels*'. Whilst this discrepancy is considered by RPS to make no material difference to the capacity assessment, it clearly does. The exercise undertaken by RPS reduces the headroom capacity available.
- 2.44 The ambiguity raised in the Asda case also brings into question the validity of the results from the WYG Shopper Survey, upon which RPS' assessment is based. It is interesting to note that many stores are highlighted in RPS tables as trading well above benchmark turnover. If such an error has been identified as appropriate to the Asda, it raises concern as to the accuracy in the trading level (and perceived over-trading) of other stores. This is a key concern with regard to the qualitative need below.
- 2.45 The headroom capacity identified by RPS is solely based upon the overtrading of existing stores, however, there is no evidence submitted by Asda in the form of a health check of any of the existing stores in the catchment. No assessment has been presented that demonstrate that any of the stores suffer from factors that could be negative to the shoppers' experience.

Qualitative Need

- 2.46 The Description of Development submitted on the application forms by Asda clearly highlights that the application is for a 'replacement' foodstore. As stated above it is the Trustees view that should Asda be approved planning permission at Southwater, it would not

be possible to identify an operator to occupy the existing store and act as the northern anchor to the town centre. The 'in addition' argument which RPS refers to is unrealistic in the real world.

Impact

- 2.47 The diversion of £30m of convenience expenditure from the PSA of Telford town centre would occur as a direct result of granting permission for the Asda planning application. If the figures identified in Table 5 of the RPS study are correct the diversion would in fact be £39.7m, but either way it represents an enormous loss of trade. The fact that there is a quantitative need/capacity, which we argue against, should not be confused with the impact that a proposal can have upon a town centre. RPS seems to completely miss the point that in policy terms the application site is 'edge-of-centre' whereas the existing store is 'in-centre'. Asda has clearly stated that they would surrender their existing site, and, therefore, in the absence of subsequent operator for its existing store, all of the trade associated with their existing store would be taken out of the existing PSA.
- 2.48 The application site is physically separated from the PSA, and the proposals to improve its links to the PSA are not detailed in the RPS letter. In any event no proposals can alter the fact that in policy terms it is edge-of-centre location. The application site is distant from the closest entrance to the PSA, whereas the existing Asda store is actually physically constructed as part of the Shopping Centre. We fail to understand how this application to re-locate can therefore be seen as positive, particularly when the Trustees have identified that an alternative site is available for development within the PSA. It would move an anchor to an isolated location. With regard to linked trips, whilst some may occur, the location of the Civic Offices site certainly does not encourage linked trips, and cannot be seen to facilitate them in the way the existing store does, therefore, the evidence submitted by RPS with regard to linked trips in other towns has little weight. Of greater relevance would be evidence of the monetary impact that such a likely reduction on footfall would have on existing stores in Telford.
- 2.49 The proposed development would inevitably produce a re-alignment of Telford's retail centre of gravity towards an edge-of-centre location. The impact this would have on the town centre as a whole and in particular the northern part of the town centre would be considerable. This simply cannot be ignored.
- 2.50 The matter of impact upon town centres is fundamental to PPS6 and even more so to draft PPS4, where it is proposed to introduce an 'impact test' specifically to identify the impact of proposals upon town centre vitality and viability. Despite the commentary provided by RPS, the application is for a replacement foodstore which would result in a direct transfer of trade to an edge-of-centre location. The RPS assessment highlights that if the existing store was re-occupied (as assumed) by one of the 'big four operators' it would trade at £5m less than existing. This assertion provides further evidence that it would be highly unlikely that one of these operators would re-occupy a store that traded at less than the existing store. In reaching this conclusion, RPS accepts therefore that turnover of convenience expenditure within the PSA would indeed fall but fail to recognise that, in the likely event the existing store could not be re-occupied, the turnover of the convenient expenditure in the PSA would actually fall by in excess of £30m. The claim that the new store would 'effectively function as part of the centre' is erroneous and also does not address the impact that would occur to the PSA.

- 2.51 It seems to be the case that RPS base the entire justification for the development on the test of quantitative need. In the first instance we strongly question the quantitative need which has been identified. In the second instance there is a viable, available and suitable sequentially preferable site at Red Oak Car Park, and thirdly irrespective of all other matters the proposal would have a hugely negative impact upon the town centre. Retail need is not a pre-requisite for development unless all of the other tests set out in paragraph 3.4 of PPS6 can be addressed, where as here, there is a sequentially preferable site which is available it must be preferred if the "town centre first" policy of PPS6 is to be achieved.

Departure from Development Plan

- 2.52 RPS acknowledges that the proposed development is in conflict with the development plan.
- 2.53 RPS seeks to attach very significant weight to the regional spatial strategy and the WYG reports but neither of these documents are directly relevant to a proposal for a food store development on the edge-of-centre Civic Offices site. Both these documents have been produced to assess overall need. The RSS is a regional policy document which has limited application to the issues involved in respect of Asda's application. The WYG report was not produced to address and does not assess the impact on edge-of-centre sites. Indeed all WYG's work has proceeded on the basis that the preferred location for development will be within the existing PSA. Any extension to the PSA is envisaged only where retail cannot be accommodated in the existing PSA.
- 2.54 RPS's assertion is that even if current regional and local policy is disregarded Asda can rely on national policies with which, it is suggested, it fully complies. That assertion is fundamentally misconceived as it is difficult to envisage a proposed development which conflicts more directly with the Government's policies on development in town centres as contained in PPS6 and in the emerging PPS4.
- 2.55 In relation to the relocation of TWC's civic offices RPS express the view that Policy CS10 of the Core Strategy is not relevant. Reference is made to the information contained in the letter from the Estates Department of TWC to RPS of 30 November 2009 to which we refer later. At this stage we would merely add that there is no formal proposal accepted by TWC to relocate to the East Southwater site and that the potential environmental effects of the relocation site have not been assessed in the Environmental Assessment accompanying the Asda application, therefore, that assessment is deficient in terms of the way it addresses cumulative impact.
- 2.56 Whilst a planning application has been submitted for the East Southwater site that has not been determined and in any event that application is not before the Plans Board meeting on 16 December 2009. In addition there is no proposed restriction on occupation of the Asda replacement facilities on the Civic Offices site until the replacement facilities have been provided in any specific location, and if there were delays on the alternative site then clearly alternative temporary accommodation would need to be secured. Such accommodation could be within or outside Telford town centre and the complete absence of clarity in respect of this issue means that the Environmental Assessment submitted with Asda's application cannot assess those potential effects, their significance and any mitigation measures which may be necessary. Clearly if either in a temporary or longer terms scenario TWC's offices had to be relocated at an out-of-centre location that would compound and increase the impact of the proposed development on the town centre. For TWC, in its capacity as local

planning authority, to accept the assessment on the current basis in these circumstances is wholly unreasonable.

- 2.57 RPS's comments on the Exploratory Meeting into CTAAP are wholly misleading. Drivers Jonas attended the Exploratory Meeting and the contents of Drivers Jonas' letter of 16 November 2009 are wholly accurate. To attempt to use the Inspector's words to support the planning application is unwarranted.
- 2.58 At the time that TWC resolved to proceed with the Submission Draft of the CTAAP, Drivers Jonas made representations to TWC on the basis that TWC's approach to the submission draft was fundamentally flawed and that the CTAAP was unsound on a number of key criteria. TWC chose to reject those submissions and pressed ahead but in due course the Inspector has endorsed the Trustees' view that the document is unsound. It is highly unusual for Inspectors to reach such a conclusion and suspend the preparation of a development plan document in this manner. It only happens as a last resort where there are fundamental defects which must be addressed. A fundamental aspect of CTAAP which is objectionable to the Trustees is the proposal to extend the PSA of Telford to include the whole of the Southwater area. Whilst we do not wish to rehearse all the arguments on this issue which have been put, it flies in the face of Government guidance for the reasons set out in the Trustees' objections to the submission draft of CTAAP and the principle of retail development on the Southwater site will be a fundamental issue for determination in the context of CTAAP.
- 2.59 The reality is that at the Exploratory Meeting, the Inspector was far from impressed with the document and heavily criticised the lack of detailed analysis of the risks associated with the approach to CTAAP – clearly suggesting that the impact of the retail strategy required more assessment and examination before the Inspector was in a position to support it or an alternative strategy.
- 2.60 RPS notes that Asda's proposals on the Civic Offices site are in line with the ambitions of TWC as set out in CTAAP. Perhaps more accurately given the chronology in respect of CTAAP, it could be said that the ambitions of TWC as set out in CTAAP are in line with Asda's proposals on the Civic Offices site. For the reasons set out above, however, the only implication which can be drawn from this is that Asda's proposals coincide with ambitions which have been described as unsound by an independent Inspector.

Prematurity

- 2.61 The approach adopted in RPS's letter and reflected almost verbatim in the Officers' Report in relation to prematurity are wholly unsustainable.
- 2.62 For example, the Officers' Report says that the proposed development is "*not so significant that by dealing with the application now would seriously prejudice a particular policy provision or development proposal that would be covered in the CTAAP*". CTAAP proposes an extension of the PSA to cover the Civic Offices site and specifically refers to the potential for an anchor retail unit at West Southwater. The Trustees have objected to these proposed policies but the grant of planning permission for Asda would clearly circumvent and pre-empt decisions as to the appropriate scale and location of development within the town centre which all relevant Government guidance state should be determined through the planned system.

- 2.63 To state, as the officers' report to the Plans Board meeting does, that the plan making process should be ignored because of edge-of-centre development is something that would occur with or in the absence of CTAAP is wholly at odds with the Government's actual guidance on these issues.
- 2.64 RPS's assertion that CTAAP should be treated as being at the "*pre-submission*" stage for the purposes of the application of the Government's guidance on prematurity is also clearly absurd. As a matter of fact CTAAP is at the submission draft stage.

Loss of Council Offices

- 2.65 We have commented above on this issue and do not need to comment further on RPS's assertions.

3. LETTER FROM TELFORD AND WREKIN COUNCIL'S HEAD OF PROPERTY AND DESIGN TO RPS DATED 30 NOVEMBER 2009

- 3.1 In this letter TWC has provided RPS with information relating to the possible future location of the replacement facilities for the Civic Offices currently sited on the application site.
- 3.2 This letter refers to a site selection process undertaken by TWC for the replacement of its offices and notes that a recommendation is to be made to a Cabinet meeting in January 2010 for ratification. We assume that the report and papers for that meeting will be available in advance to the public but this has not been confirmed.
- 3.3 The information contained in this letter has not been circulated to the public or the Trustees and therefore provided information from TWC's Estates Department to RPS on a preferential basis. This adds to the serious concerns outlined elsewhere in the representations submitted on behalf of the Trustees that there is, or at the very least there is the appearance of, a conflict of interest between TWC's functions as local planning authority and as land owner as the information contained in that letter has been referred to within RPS's letter of 3 December 2009 and this information is referred to in the officers' report to the Plans Board meeting on 16 December 2009.
- 3.4 It is clear that TWC's letter to RPS of 30 November 2009 cannot pre-judge the deliberation of any Cabinet decision whether in January 2010 or thereafter in relation to the Civic Offices relocation. It is, therefore, clearly premature to treat the East Southwater site referred to within that letter as being endorsed by TWC in any formal sense as an appropriate location.
- 3.5 In addition the letter states that TWC owns the land upon which it intends to build the replacement Civic Offices and aims to have completed the building by December 2012. There is no information within the public domain as to whether or not that is a realistic programme and there appears to be no further investigation by TWC in its capacity as the local planning authority to examine or verify that information as being reliable.
- 3.6 Indeed all the indications are is that there is doubt as to that date as Asda has sought a five year planning permission and the Officers' Report proceeds on the basis that TWC would be willing to grant a planning permission which would have a four year lifetime. If planning permission were then, say, issued early in 2010 for the Asda proposal, Asda would be able to delay implementation until early 2014 with a store opening date in 2015.

- 3.7 As set out in the Trustees' objections to the Asda planning application, the implications of this that there would be a closure of the existing Asda store at the end of the current lease and then there would be a hiatus without any major food store offer within Telford town centre until opening of the new Asda in 2015. The potential impact of this on the town centre has not been assessed at all either by Asda or TWC and this is a major defect in TWC's approach to the assessment of Asda's application.
- 3.8 TWC's approach is also procedurally unfair in that the Trustees in their initial objections to the planning application submitted by Drivers Jonas on 16 November 2009 made specific reference to the uncertain nature of TWC's proposals for the relocation of its offices and there is a legitimate expectation on the Trustees' part that they should have been consulted on the contents of the letter sent by TWC to RPS on 30 November 2009.
- 3.9 The fact that TWC, in its capacity as land owner, has provided RPS with information on this issue on an exclusive basis is regrettable.

4. THE PLANNING OFFICERS' REPORT TO TWC'S PLANS BOARD MEETING ON 16 DECEMBER 2009

4.1 Publicity and consultation

- 4.1.1 Officers' Report states that the Asda application was received by TWC on 23 October 2009. It was advertised on TWC's weekly lists in the week ending 27 October 2009. At that time there was no evidence of the press notice which is required under Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. An email was sent by Drivers Jonas to Gareth Thomas on 18 November 2009 requesting confirmation that the Article 8 notices had been published and details of where they were published. He confirmed on 19 November 2009 that the notices would be put in the Shropshire Star that day, although the notices were actually published on 20 November 2009.
- 4.1.2 The original deadline for consultation responses was 16 November 2009 based on the date publication in the weekly list, however, due to the late publication in a local newspaper, the deadline for comments was extended until 11 December 2009. It is evident that the Officers' Report has been produced in advance of the end of the consultation period, without providing stakeholders with a full opportunity to comment on the application.
- 4.1.3 The Officers' Report also states that 12 immediate neighbours were informed of the planning application. The Trustees, as owners of the shopping centre, were not directly consulted.
- 4.1.4 The Trustees submitted their initial objections to the application on 16 November 2009 and reserved the right to submit additional information at a later date. The Officers' Report has been produced without providing the Trustees, as key landowners and a significant stakeholder in the Town Centre, an opportunity to provide full comments on the application. The Trustees were not directly informed of the proposed date for consideration of the application by members and were not at any time asked for their further comments.
- 4.1.5 When the Asda application was first advertised, TWC's planning officers informed Drivers Jonas in a telephone conversation that the target date for the decision would be 16

January 2010, and indicated that the application was likely to be reported to the Plans Board on 6 January 2010. At no time since that date did TWC inform the Trustees that the committee date had been moved forward. The first the Trustees' knew of the revised committee date was publication of the Officers' Report and a press release issued to that effect.

- 4.1.6 Given the inevitable lead in time for the preparation of report to the Plans Boards (usually a minimum of 2-3 weeks) the Officers' Report has clearly been prepared prematurely, well before the consultation period had finished. It, therefore, by definition cannot have taken all comments into account. In addition, a telephone conversation with officers on 9 December 2009 suggested that many of the consultation responses had only recently been received. This strongly suggests that officers have not been afforded sufficient time to consider these responses.
- 4.1.7 There are some notable absences of comment including from the Highways Agency ("HA") and Advantage West Midlands. TWC has advised that these responses will be included as an addendum to the Officers' Report. It is extremely unusual practice, however, to report a major planning application to a decision-making committee in advance of receipt of key representations, especially when consultation period had not finished when the report was published. The fact that the reporting of the application is premature is evidenced by a comment in the Officers' Report at page 57 where it is stated that *"Your Highway officers have identified inadequacies in the TA lodged with the planning application; these concerns are shared by the Highways Agency who may issue a Direction to defer consideration before meeting of Plans Board this evening."*
- 4.1.8 Not resolving these highways issues prior to the reporting of the application is a serious matter. This is particularly significant given the application relies upon the findings from CTAAP in terms of the highways evidence base, and the policies and proposals contained within CTAAP carry no weight given the plan's recent suspension on the basis of the need for further extensive work required to be completed, including on highways matters. Members should have all the evidence in relation to highways matters before being able to consider this application, and until a formal response has been received from the HA the application should be deferred.
- 4.1.9 There are other statutory consultees who have not yet responded to the application. Below is a list of statutory consultees included in Appendix 7 to the TWC Statement of Community Involvement (May 2006) where, to date, no response has been commented on in the report, so that it must be assumed that no response has been received.
- **Advantage West Midlands**
 - **Commission for Architecture & the Built Environment (CABE)**
 - **English Partnerships (now known as Homes and Communities Agency)**
 - **Government Office West Midlands**
 - **Highways Agency**
 - **Police Architectural Liaison Officer**
 - **Police Crime Risk Officer**
 - **West Midlands Regional Assembly**
- 4.1.10 The reporting of the application in advance of receipt of comments from these statutory bodies is premature and the consideration of the application should be deferred until all

responses are received and the officers have had adequate time to consider and report on those responses.

4.2 Trustees' Objection

4.2.1 Pages 35/36 of the Officers' Report summarise the Trustees' objection, submitted to TWC on 16 November 2009.

4.2.2 On page 42 of the Officers' Report TWC states that the stance taken by the principal objectors to the scheme is an important consideration for TWC as they represent an important stakeholder in the economy of this town centre, however, it is evident having read the Officers' Report, that a number of important points raised by the Trustees' have not been fully considered by officers and, significantly, the Trustees' were given no opportunity to respond to the RPS letter, which was a specific response to their objections.

4.2.3 The importance of consultation with key stakeholders was emphasised by the Inspector at the Exploratory Meeting into CTAAP, where he advised TWC and the Trustees to work with each other with regard to the content of the CTAAP.

4.3 Planning Policy Background

4.3.1 The policy basis for Trustees' objections to the application is set out in the Trustees' letter dated 16 November 2009, however, the Trustees have the following comments on the policy analysis in the Officers' Report:

Wrekin Local Plan (1995 – 2006)

4.3.2 Page 38 of the Officers' Report recognises that the application represents a departure to the Development Plan. Indeed the Proposals Map for the adopted Wrekin Local Plan allocates the site for employment use. Policy TC2 specifically states that retail development should be limited to sites allocated on the Proposals Map ,which the application site is not. The Officers' Report makes reference to the Local Plan being out of date, inferring that such a departure is not a major issue. However, it is appropriate to point out that these policies were saved in 2007 and carry full section 38(6) Planning and Compulsory Purchase Act 2004 weight.

4.3.3 In this context page 41 of the Officers' Report states that strict adherence to Policy TC2 would not "*constitute a proportionate response to the significant growth proposed in the RSS*". This seems to suggest that the sites identified for retail development on the Proposals Map are not sufficient to meet the 50,000 sq m of new retail floorspace proposed in Telford to 2021 (or 70,000 to 2026) as set out in Policy PA11 of the West Midlands RSS Phase II Revision.

4.3.4 This is an incorrect assertion and appears to be based upon the CTAAP "evidence" base, i.e. the second WYG Retail Study ("**WYG2**"). TWC states that appropriate weight should be afforded to the WYG2 alongside PPS6 and the Wrekin Local Plan saved policies. This is a further attempt to justify departure from the saved policies of the adopted development plan. Both CTAAP and the WYG report are under challenge.

Core Strategy

4.3.5 TWC seek to remind members on page 41 of the Officers' Report that Policy CS4 acknowledges that the role of the Central Telford Area will be consolidated and enhanced as the hub of the service centres hierarchy by *inter alia* creating more shops. It is

suggested that the application would therefore accord with the Core Strategy. However, this is evidently not the case, as Policy CS4 of the Core Strategy is broad and deals with Central Telford area in one policy, rather than highlighting particular areas for development where in the Central Telford Area is appropriate for significant retail development is to be covered in an AAP. Currently there is no AAP nor a soundly emerging AAP to guide the application of CS4.

Central Telford Area Action Plan, and supporting evidence

- 4.3.6 Since the submission of the CTAAP the appointed Inspector has raised serious concerns about the Plan and has concluded that in its current state it is likely to found “unsound.” It is relevant to the Asda application that the Inspector raised concerns about the “*vagueness, imprecision and effectiveness*” of, for example, Town Centre proposals TC1 a, b and c.
- 4.3.7 Further the Inspector has raised a series of questions concerning TWC’s retail work. TWC responded that it would undertake additional work to demonstrate that the capacity figures can be supported, but to date the Trustees have seen no evidence of this work.
- 4.3.8 Question 39 of the Inspector’s Initial Questions requires evidence to demonstrate that the proposed retail growth can be accommodated on identified and allocated sites. TWC’s reply referred to the WYG Town Centre Retail Capacity Update (2009) which assessed the capacity of a range of sites to accommodate retail growth, and that this was “*informed and confirmed by pre-application discussions with development stakeholders in this area (Telford Trustees and Asda).*” Yet evidence produced by the Trustees in response to CTAAP clearly demonstrated that there was sufficient capacity to accommodate all the retail floorspace within the PSA, but it is evident that this has not been taken into account.
- 4.3.9 The CTAAP Examination has now been suspended for 6 months pending the completion of further work by TWC. In the Officers’ Report officers have agreed with the Trustees that CTAAP “*should not be afforded any weight given its current uncertain status*” (page 41).
- 4.3.10 Reference to retail need identified by WYG, CTAAP Policy CT2 and accommodating retail need within an extended PSA is, therefore, of no relevance to this planning application.
- 4.3.11 The Officers’ Report states that the Trustees’ position as regards CTAAP is “*inconsistent*” (page 41, paragraph 5) as their objection to the Asda application states that any no weight can be afforded to CTAAP but that determination of the application would be premature in the context of the emerging Area Action Plan. These comments from the Trustees are not in conflict. The Trustees are satisfied that the determination of the Asda application is premature, in advance of the full consideration of CTAAP and that the approval of the application would, in fact, be implementing proposed Policy TC1b, and, thus, the decision would pre-empt full and proper consideration of future retail policies by the Inspector. We comment on the prematurity argument further in our response to the RPS letter above.

National Retail Planning Policy

- 4.3.12 In the absence of any more up-to-date policies, the report states that it is appropriate for the application to be considered against Planning Policy Statement 6 (PPS6). The Trustees agree with TWC on this matter.

- 4.3.13 With regard to emerging National Planning Policy Guidance (PPS4), the Officers' Report states that there is no *"proposed change to the requirement for LPAs to assess the.....sequential approach to site selection....."* This is completely incorrect and misleading to members. Draft PPS4 places even greater emphasis on the 'Town Centres First' approach, and suggests the removal of 'needs test' as a consideration for development proposals. The Draft Statement places an emphasis upon the Sequential approach to site selection and the 'impact' development proposals would have upon existing town centres.
- 4.3.14 Policy EC19 (the consideration of sequential assessments for planning applications for town centre uses), Part 3 states that in considering sites in or on the edge of existing centres developers and operators have demonstrated flexibility about their proposed business model, such as *"the format of their development; more innovative site layouts and store configurations such as multi-storey developments with smaller footprints"* and *"car parking provision; reduced or reconfigured car parking areas"*.
- 4.3.15 In addition Part 6 of Policy EC19, applicants are required to have provided clear evidence to demonstrate why otherwise sequentially-preferable sites are not appropriate for the particular development proposed.
- 4.3.16 Policy EC20 (the impact assessment for planning applications for town centre uses not in accordance with the development plan) states that accessibility of the proposal should be considered, and the impact is on the town centre vitality and viability.
- 4.3.17 Policy EC21 (the consideration of planning applications for development for town centre uses not in a centre nor allocated in an up to date development plan) states that Councils should *"refuse planning permission where the applicant has not demonstrated compliance with the requirements of Policy EC19 (the sequential approach)"* (Policy EC21.1.1).
- 4.3.18 The Trustees consider the planning application is also in direct conflict with the following planning policies, which are not referred to in the Officers' Report:

Planning Policy Statement 1: Delivering Sustainable Development

- 4.3.19 In paragraphs 27 to 29 the Government sets out its general approach to delivering sustainable development. Objectives for local planning authorities' development plan include promoting the more efficient use of land through high density mixed use developments. The application site will not provide a high density of development, nor a genuine mix of uses appropriate to a Town Centre. The proposal is for an out of centre style single level retail box on stilts with a sea of car parking. The application fails to meet design criteria for a town centre site set out in PPS1 and fails to make an efficient sustainable use of the site. Extremely tenuous links are made to a residential application on adjacent land, however, these are two separate applications with no direct functional link and a mix of uses would not be delivered.
- 4.3.20 PPS1 sets out the requirements for development in terms of design. These include the need to: address the connections between people and places; integrate into the existing urban form and the natural and built environments; and be an integral part of the processes for ensuring successful, safe and inclusive towns. The application clearly fails on all these issues. It is of poor design (a basic retail box) which is physically separated by a 2m high proposed wall along the eastern boundary of the site and poorly integrated with the surrounding environment. Furthermore, there is a total lack of justification for the

design approach set out in the Design & Access Statement. It represents an alien development at odds with its surroundings.

- 4.3.21 The Officers' Report states that the scheme shows pedestrian friendly linkages across the Box Road, but the application, which is submitted in full, does not provide details of how this will be achieved. It is also noted that on page 58 of the Officers' Report, the details of this is not required as a condition, unless it is part of 'landscaping implementation'. It appears that TWC has no control over requiring the applicant to provide this link to the rest of the town centre, which is a fundamental justification for improving accessibility of a site which is physically separated from the existing PSA.

Planning Policy Statement: Planning and Climate Change- Supplement to Planning Policy Statement 1 (December 2007)

- 4.3.22 TWC must ensure that proposed development is consistent with the policies of this supplemental PPS (paragraph 39), and the majority of the information should be contained within the Design and Access Statement. This information, however, is evidently lacking from the application. Furthermore, there does not appear to be provision of a detailed Travel Plan in support of the application. The CTAAP Inspector drew attention to the lack of policies contained within CTAAP in relation to climate change and the need for TWC to take a clear stance in its Plan making processes. TWC's response was that it relies upon on developers to bring measures forward. No such measures are proposed by Asda in its application and no consideration is given by TWC to the requirements to meet the provisions of PPS1.

Planning Policy Guidance Note 13: Transport

- 4.3.23 Paragraph 21 notes that local authorities should seek to make maximum use of the most accessible sites, such as those in town centres and others, which are or will be close to major public transport interchanges and thereby reducing the dependency on the car.
- 4.3.24 Well designed traffic management measures can contribute towards planning objectives in a number of ways. They can reduce the impact of motorised traffic in certain areas and help improve the attractiveness of urban areas which should promote safe walking, cycling, and public transport use.
- 4.3.25 This development will encourage people to use their cars more than the existing location. This is explored in more detail later in the report.

Regional planning policy

- 4.3.26 The Officers' Report states that the emerging RSS states that the is proposed growth in households of 26,500 between 2006 and 2026 in Telford, however, as a result of a number of queries being raised to the RSS Phase II Revision, the appointed Panel has decided to prepare an addendum report. Much of this has no relevance to Telford, however, we would like to direct TWC's members and officers to the revised housing trajectory on Page 2 of the report. This clearly highlights that residential development will be back loaded. It is anticipated that only 775 dwellings per annum can be delivered in Telford up to 2011, and only 1,170 dwellings per annum for the next 5 year period to 2016. This results in less than 9,500 new homes by 2016, which is only 36% of the 20 year target. The housing delivery is heavily back loaded to the period 2016-2021 (8,000 homes) and even more so for 2021-2026 (8,775 homes).
- 4.3.27 This document represents the most relevant and up-to-date information available, and further undermines the proposals of TWC to frontload retail development. Furthermore,

the WYG Retail Assessment, which TWC seek to utilise in order to justify quantitative and qualitative need for the development does not take account of the slower than originally anticipated housing growth, and coupled with the overcooked estimated growth rates in comparison retail expenditure (to which we have already raised objection to CTAAP) seems to provide even further justification that the WYG Retail Assessment is not based on sound or robust population and expenditure analysis. This is further justification as to why the WYG Retail Study should not be given any weight for development control purposes.

4.4 Retail Planning Considerations

General Comments

- 4.4.1 To the extent that there is a qualitative need for a new foodstore to replace the existing facility in accordance with national, regional and local policy, this should be provided within the existing PSA.
- 4.4.2 TWC was informed by letter from Drivers Jonas dated 13 November 2009 that the Trustees proposed submitting a planning application for the development of the Red Oak car park. A consultation event took place on 25 November 2009 and a pre-application meeting was held on 1 December 2009. Although at the time of writing the Officers' Report no application had been made (it was submitted on 11 December 2009), TWC acknowledges in the Officers' Report that it *'might be facing proposals that may appear on the face of it to be competing directly for a slice of the retail capacity available in Telford'*.
- 4.4.3 Despite the knowledge held by TWC about the forthcoming Trustees' application, nowhere in the report is there any consideration of the Trustees' proposals for the Red Oak car park in determining the Asda planning application.
- 4.4.4 This is inherently inappropriate as it is recognised by TWC that it is 'competing' and, therefore, a material consideration that should be given due account. The issue is not one of need but the fact that the Trustees' application is proposed within the PSA on a sequentially preferable site in PPS6 terms, and TWC is thus wrong in the assertion that the Trustees are *'seeking a slice of the retail capacity available in Telford'*. This statement suggests the Trustees would consider both applications being approved, whereas in fact it is the Trustees' view that the Asda application should be refused, and that a major retail anchor should be retained in the PSA by approving the planning application on Red Oak Car Park.

Quantitative Need

- 4.4.5 On Page 43 of the Officers' Report TWC states that the applicant has utilised TWC's WYG Borough-wide Retail Study to determine whether the additional floorspace would prejudice TWC's objective of securing the future health of the town centre. Commentary is then provided on the expenditure capacity identified by WYG for convenience goods. In the first instance we re-iterate that TWC's WYG Retail Study should be given no weight. It has been prepared as part of the evidence base of the CTAAP, to which the Inspectorate have identified as being unsound at an exploratory meeting in November 2009.
- 4.4.6 The 'headroom capacity' identified by WYG is also purely based upon the 'overtrading of other stores against benchmark turnovers'. This represents a qualitative need as opposed to a quantitative need. Furthermore, some stores are naturally designed to trade at higher levels than others. Overtrading above benchmark turnover should not be seen as a

negative that requires development unless the overtrading is to such an extent that it is to the detriment of the customers shopping experience.

- 4.4.7 The evidence submitted by Asda does not undertake a health check of any of the existing stores in the catchment. As stated above in response to the RPS letter, no assessment has been presented that demonstrates that any of the stores suffer from factors that could be negative to the shoppers' experience. Without this evidence it is not sufficient to claim that any overtrading above company average turnovers should be directed to a new additional foodstore.
- 4.4.8 At paragraph 3.17 of their objections, the Trustees contest that the catchment area defined is not appropriate. This is directly linked to Paragraph 3.10 of PPS6. In response TWC state that a 'short sensitivity analysis has been undertaken comparing the outputs of a more appropriate 10-15 minute drive time, which shows 'reasonable' correlation. No explicit evidence has been provided to the Trustees to satisfy their concerns on this matter, and we request that further work is undertaken to demonstrate that this matter has been satisfied.
- 4.4.9 The applicant also assumes that all 'headroom capacity' should be directed to Telford as opposed to re-apportioned to other existing centres within the district. Apportioning all of the headroom capacity identified by WYG to Telford Town Centre is an absurd approach to take as it suggests that a significant number of people (particularly from the north and west) would indeed by-pass an existing Asda Store at Donnington and other large foodstores in order to travel further to a smaller store in Telford. This assumption cannot be deemed to be correct.

Qualitative Need

- 4.4.10 The evidence provided by the applicant with regard to qualitative need is confused and wholly unsatisfactory. The applicant claims that the store is under-trading for a number of reasons. Whereas TWC state on page 45 that *'This is at odds with the applicants own RIA and tables, which suggest that the store is over-trading'*. This matter was highlighted by the Trustees in paragraph 3.21 of their objection letter dated 16 November 2009. TWC claim that *'this has little effect on retail capacity'* yet it brings into question the validity of the evidence being presented, which in a case such as this, whereby a retail anchor to a town centre is being re-located to an edge-of-centre location, should be completely robust.
- 4.4.11 TWC is wrong in its assertion, that the Trustees 'seriously question the applicant's claim that Tesco Extra is overtrading by 70% and Donnington Wood by 100%'. The Trustees have simply requested that more robust evidence is presented to demonstrate this claim, particularly given it is information that the applicant should easily have to hand, whereas TWC appear not to fully question the validity of the information provided to them on this matter stating *'whether the figures are entirely accurate is open to conjecture, but your officers acknowledge that there is evidence of over-trading at both the out-of-centre stores'*. The appropriate stance to take would be to request further information and provide officers, members and the public with comfort that Asda's figures are correct, particularly given that it is based on WYG's evidence which cannot be given any weight at this stage.
- 4.4.12 As the application is contrary to policy and would be subject to a referral for call-in by the Secretary of State, therefore, any evidence should be robust and open to scrutiny. The Trustees are concerned that TWC does not have sufficient hard evidence to satisfy itself

of such significant levels of overtrading, and the approach of TWC in determining this application does not appear impartial. Furthermore, as previously stated in our representations, any available expenditure should be directed to the Town Centre sites, for example the Red Oak Car Park in the first instance, not to edge-of-centre or out-of-centre locations.

4.4.13 The fact that '*members will need to ask themselves whether the new store (proposed by Asda) will lead to qualitative improvements*' is one factor to be considered. This factor is secondary to the need to maintain/enhance town centre viability and adopt a 'town centre first' approach to development. In the context of development control, PPS6 requires applicants to demonstrate that the proposal would satisfy all 5 tests set out in Paragraph 3.4 of the Guidance. Furthermore, whilst in qualitative terms, providing customer choice is a consideration, it should certainly not override the "*town centres first*" approach, particularly where development of a out-of-centre site would have a detrimental impact upon an existing town centre and when there is evidence submitted in the form of a robust planning application (by the Trustees) to demonstrate that qualitative improvements can be met within the PSA.

4.4.14 The qualitative improvements listed on page 45 also seem to disregard linked trips associated with a town centre supermarket, and in particular disregard qualitative improvements for disabled persons. The existing store location (and indeed the Red Oak Car Park) offer a direct convenient link for disabled persons to the rest of the shopping centre at grade level facilitating linked trips. The Asda proposal to move the supermarket approximately 200m from an entrance to the shopping centre, which can only be accessed by crossing of a busy road will discourage many people from combining visits to the existing centre. This will specifically apply to disabled persons, particularly given that the proposed Asda is to be provided on stilts i.e. not at grade level. This cannot be deemed to represent a qualitative enhancement to the shopping experience of the physically impaired.

Need v Location

4.4.15 In any event whatever the need position the "town centre first" policy requires that development be directed to the town centre. Only if there are no sequentially preferable sites available can Asda hope to be given planning permission for the Civic Offices site.

Sequential Approach

4.4.16 On Page 46 TWC accepts that the PSA is defined as the land within the 'Box Road'. This is confirmed by the adopted Local Plan which allocates land within the Box Road for retail development. Work carried out by TWC in relation to the preparation of the CTAAP refers to land within the Box Road as the 'Existing PSA'.

4.4.17 On this basis, whilst it is agreed that PPS6 contains the most appropriate policy tests for considering retail planning applications, the Local Plan cannot be disregarded. It is accepted by Asda that the application site is an edge-of-centre site and therefore in accordance with paragraphs 3.13 – 3.19 of PPS6 a sequential test is required. As stated in paragraph 2.3 of the Trustees' objections, PPS6 specifically states that '*where it is argued that otherwise sequentially preferable sites are not appropriate for the particular development proposed, **applicants should provide clear evidence to demonstrate why such sites are not practicable alternatives in terms of availability, suitability and viability***'.

- 4.4.18 Paragraph 3.15 of PPS6 states that "*developers and operators should be able to demonstrate that in seeking to find a site in or on the edge of existing centres they have been flexible about their proposed business model*". These will include consideration of "*...the scale of their development; the format of their development; car parking provision; and the scope for disaggregation.*"
- 4.4.19 Paragraph 3.16 of PPS6 specifically states that purpose of the sequential test is '*to explore the possibility of enabling the development to fit onto more central sites by reducing the footprint of the proposal. In seeking to demonstrate flexibility under Paragraph 3.15 above, developers and operators should consider, in terms of scale: reducing the floorspace of the development; in terms of format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints; and, in terms of car parking: reduced or reconfigured car parking areas*'.
- 4.4.20 Requesting a minimum site area of 2.2 hectares as a pre-requisite for development does not represent a flexible approach. There are numerous examples of large supermarkets which can be accommodated on town centre sites smaller than 2.2 hectares in size. Furthermore TWC points out that the applicants have already compromised by 'incorporating undercroft car parking and travelators into the design of their store'. The applicants claim that it would be unreasonable to expect them to further reduce their minimum area requirement, which is considered '*reasonable*' by officers.

Red Oak Car Park

- 4.4.21 The Trustees maintain that the Red Oak Car Park is suitable, available and viable for development. The Trustees have submitted an outline application for mixed use development including a new supermarket, which can accommodate the specifics contained in Asda's application on a sequentially preferable site. The site is over 2.2 hectares; provides over 500 car parking spaces; and provides a sales floor of equivalent size (or larger) than that proposed by Asda at grade level with undercroft car parking which is linked by a travelator. Indeed the application highlights that a direct replica of the Asda store can indeed be accommodated within the PSA on a sequentially preferable site.
- 4.4.22 In the Officers' Report TWC has specifically stated that Red Oak Car Park is sequentially preferable.
- 4.4.23 We have set out in the response to the RPS letter the Trustees comments regarding the validity in planning terms of the "ability" of Asda to block the development of the Red Oak car park via the provisions of the lease it holds on the site.
- 4.4.24 It is also worth noting that TWC places great significance on delivery of a new store in Telford by 2014. Not only does it place 'need' over all other town centre issues, TWC claims that the sequentially preferable site (the Red Oak Car Park) cannot be delivered until after 2014. This is simply not the case. It is also worth noting, however, unless TWC is proposing to move to temporary accommodation, the Asda proposals for Southwater are subject to the securing of an alternative site for TWCs offices; securing planning permission for that development; building the replacement offices; relocating the offices; subsequent demolition of Malinslee House; and then redevelopment of the cleared site for a new foodstore. The delivery, therefore, of the site for a new foodstore is entirely dependent on a number of other subsequent events. Even if these were to accord with the proposed programme it is evident that a new foodstore could not be delivered until 2014.

- 4.4.25 Furthermore it is noted that the civic offices site is bound by a restrictive covenant in favour of the Homes and Communities Agency which restricts the use of the land for any other use than an office building. This restriction is not referred to in the RPS letter or the Officers' Report yet Asda and TWC's argument that the Red Oak Car Park will not be available until after 2014 rests on a covenant in favour of Asda.
- 4.4.26 It is evident that Asda is not anticipating delivering the foodstore on the Southwater site before 2014 given that it sought a five year implementation period to enable the sequence of events outlined above to be completed.
- 4.4.27 In contrast, Asda's lease for Red Oak Car Park expires in April 2014 and the replacement store for Asda could be delivered on the Red Oak car park in advance of that date.
- 4.4.28 Similarly, the Ash Grey Car Park could also accommodate a new foodstore (albeit compromised with multi-level car parking), yet TWC concludes that 'Realistically, there are few opportunities within the Box Road' (the PSA). This again seems to represent a one-sided view, based solely on Asda's submission and the RPS letter dated 3 December 2009, that provides no regard to the Trustees' proposal which is an appropriate solution that would avoid any conflict with national planning policy.
- 4.4.29 With regard to Central Southwater, TWC dismisses the existing retail boxes as unsuitable because the 'Range' is occupied and the car park is in use. Both these matters apply in equal measure to TWC Civic Offices site, which is occupied. It also discards the Paragraph 2.5(xxiii) of the Trustees' objections. In total Central Southwater, which benefits from better links to the PSA (and is therefore sequentially preferable) comprises two retail units of 1,780 sq m and over 3,500 sq m: one is vacant, whilst the other unit could be vacated at short notice (i.e. within a period of 6 months). Had TWC even asked the Trustees this one question on this simple point, TWC's report could have been accurate in this regard. On this basis this site cannot be dismissed on the basis of suitability or availability. No evidence is presented to suggest it is unviable.

Retail Impacts on the Town Centre

- 4.4.30 On Page 48 of the Officers' Report TWC states that the applicant has provided a useful health check of Telford. The applicant's health check suggests Telford is a thriving shopping centre with good indicators of vitality and viability.
- 4.4.31 Evidence submitted by the Trustees (i.e. the owners of the Shopping Centre) contradicts the applicant's health check. As stated at paragraph 3.11 of the Trustees objections, vacancies in the centre have increased from 2.2% to 14.4% in the past 2 years. A vacancy rate of 14% is above the national average and, therefore, highlights the impact of the recession upon Telford. TWC has not paid sufficient regard to the evidence provided by the Trustees. It is stated in the Officers' Report that *'your officers believe that there is a quantitative need for additional capacity to be provided in the convenience sector going forward and that arguments about the current economic climate do not alter the fact that we are planning for a period well beyond the present recession'*.
- 4.4.32 Need is only one factor: TWC has not paid sufficient regard to the impact of the proposal on a town centre that has already suffered as a result of the current recession. The approach adopted which seeks to deliver need (which in itself is based on a flawed and unsound evidence base (the WYG Study)) without full consideration of impact runs completely at odds with the Government's objectives for Town Centres as set out in PPG6.

- 4.4.33 As stated at paragraph 3.31 of the Trustees' objections, the Asda proposal would result in the removal of £30.1 million of convenience expenditure from the PSA and a further £13m of comparison goods expenditure, thus even the evidence presented by Asda, itself, clearly identifies that 71% of all existing convenience expenditure in Telford Town Centre would be removed from the PSA. Taken in isolation, this represents an enormous impact upon the Town Centre, before any consideration is given to linked trips, or investor confidence. TWC appear to have completely disregarded these potential impacts (which is based on relevant and up-to-date market information), on the assumption that the existing Asda unit would be re-occupied. TWC states on page 48 '*This assessment has to assume that the existing Asda store would be re-occupied for it to be realistic in terms of impact on the Town Centre*'.
- 4.4.34 We have commented on this in full in our response to the RPS letter, but in summary the Trustees' clear position is that the existing store is unlikely to be re-occupied by another operator. The Trustees' assertion is based upon their own discussions and market information, and nothing has been presented by the applicant to suggest this is not the case. The worst case scenario (i.e. Asda re-locate to Southwater and the existing store is not re-occupied) has not been assessed by the applicant. The most likely impact of this proposal is a direct trade draw of £43.1 million and several hundred jobs from a town centre to an edge-of-centre location.
- 4.4.35 Asda suggests that developing the Red Oak car park is not possible due to a loss of car parking and there would be an 80% reduction to Asda's trade. Not only does this rely on the missing illustrations referred to above but the existing store is also located in a highly sustainable town centre location and is also located adjacent to the Ash Grey Car Park which provides a further circa 400 spaces. The first phase of the Trustees' application would be to facilitate improved access to the existing Ash Grey Car Park prior to commencement of construction. Furthermore, the car parking strategy appended to the Transport Assessment submitted with the Trustees' application demonstrates a number of commitments to improve access to the other car parks within the town centre. It is difficult to understand how such a scenario could possibly result in an 80% reduction to Asda's trade.
- 4.4.36 In the Trustees' view the officers have not taken account of all considerations and have wrongly reached the conclusion that '*there is a compelling argument to suggest that in order to secure the best outcome for the town centre the local planning authority should support the relocation of Asda to a new purpose built store without disruption and then pave the way for the redevelopment of the Red Oak Car Park site and existing Asda*'. This suggests that a permanent detrimental impact upon the Town Centre is acceptable provided there is no short term impact upon Asda. This is completely contrary to the Government's objectives to promote town centres. The assertion that the '*alternative would slow down retail growth in the town centre*' is based solely upon the position of Asda. If it was to release its covenants the Red Oak Car Park could be delivered in similar timescales to the applicants proposals for Southwater.
- 4.4.37 To conclude that the proposal would not harm the vitality and viability of the town centre in terms of retail impact is inherently wrong. There are also sequentially preferable sites within the PSA which can accommodate Asda's requirements. Furthermore, this could be delivered in a similar timescale to the proposals for Southwater. The Trustees completely disagree with the officers' conclusion that the proposal accords with national and local planning policy in relation to retail planning considerations. It clearly does not.

4.5 Design

- 4.5.1 As noted in the Trustees' objections, the applicant's proposal does not engage with neighbouring sites or encourage future engagement as it includes a sea of car parking at level across the whole of the site with the store at least four metres in the air above half of it.
- 4.5.2 No ground level activities are provided at any edges of the site the only activity indicated is the centre door to the travelator, which is 60 m from the nearest boundary. The site analysis in the Design and Access Statement identifies the front two thirds of the south elevation as a location requiring active frontage, however, this aspiration is not carried forward by the scheme drawings which show a blank elevation completely void of any activity.
- 4.5.3 The building presents the land to the north west of the site with a long blank 7m tall elevation, within 5m distance of the existing job centre. This elevation is the only part of the building which directly relates to any edges of the site, but unfortunately this 75m long inactive edge is against an existing footpath, thereby creating a very hostile environment.
- 4.5.4 None of these concerns have been addressed in the Officers' Report, and it is even suggested that the application will seek to assist with providing a new 'high street' leading from the Telford International Centre leading to this site, although in relation to the retaining wall with a 2.5m level difference at key points it is stated that this is '*unfortunate*'.
- 4.5.5 The Officers' Report also states that there will be pedestrian routes across to the town centre which will sufficiently overcome the physical constraints of the site, however, although the application makes reference to "*pedestrian friendly crossings over the highway towards the House of Fraser and the Town Centre beyond*" this is not provided in any detail to demonstrate that this is achievable.
- 4.5.6 Paragraph 4.80 of CTAAP states that the downgrading of the Box Road is crucial in facilitating the delivery of CTAAP, Table 5 (Major Schemes) states that the downgrading on the Box Road will not start any earlier than 2015 or after completion of highway capacity improvements, therefore, the proposed extension to the PSA could not begin to be considered to be capable of being connected with the existing PSA until after 2016, which means that the extension is not in accordance with PPS6 and emerging PPS4.
- 4.5.7 In addition, the Inspector for the CTAAP expressed concern about the transport, requiring additional work on the transport matters which must be completed before the CTAAP.
- 4.5.8 Finally, the Officers' Report states that with suitable conditions requiring the submission of further details the development can be supported from a design point of view, however, as the application is in full, this information should have already been provided to demonstrate that a high level of design will be achieved.

Transport & Highways

- 4.5.9 On behalf of the Trustees, Peter Brett Associates ("**PBA**") has undertaken an extensive review of the application submitted by Asda for development of Southwater. In the first instance it should be noted that page 32 of the Officers' Report identifies that the Environmental Impact Assessment ("**EIA**") was accompanied by a Traffic Assessment and Outline Travel Plan. This is incorrect. The EIA was accompanied by a Transport Assessment and a Travel Plan Framework.

- 4.5.10 In accordance with PPS1 and the Department for Transport 'Good Practice Guidelines: Delivering Travel Plans through the Planning Process', A Full Travel Plan should have accompanied the EIA. The guidance specifically states that "*Full travel plans are appropriate for full planning applications where the proposed use and accessibility needs are known.*"
- 4.5.11 Page 34 of the Officers' Report states that as part of the section 106 agreement £720,000 will be contributed for major highways projects (in line with a plan led approach advocated in the CTAAP). It is not clear what the contributions are for. Furthermore, this makes reference to CTAAP, which as previously re-iterated several times by the Trustees and accepted by TWC, should not be given any weight.
- 4.5.12 The Officers' Report states that the Transport Assessment ("TA") has been produced using a different methodology to that currently being employed by the Local Highway Authority ("LHA"). The TA should be produced using the 'Guidance on Transport Assessments (2007)' issued by the Department for Communities and Local Government and the Department for Transport. Therefore this cannot be considered sufficient.
- 4.5.13 It is also stated that the LHA is adopting a plan led approach (through CTAAP) to determine the impact of the development on the local highway network using both a VISUM and VISSIM model to ascertain the impact of the development. Once again this makes reference to CTAAP, even though it is accepted that the CTAAP should be given no weight and has been suspended by the Inspectorate (with highways being one of the fundamental reasons for the suspension).
- 4.5.14 It is noted that TWC's own highways department has stated that the pedestrian crossing proposed at Coach/Malinsgate/Woodhouse is not satisfactory at this time. The LHA has suggested revisions that need to be made to the junction and therefore have not accepted that it operates adequately. This is fundamental to the applicant's rather tenuous proposals to improve accessibility to the site and improve links to the Town Centre. The Trustees fail to understand how conditional consent can be given to something that is known not to work. Until the information provided is satisfactory, the application should not be approved.
- 4.5.15 Reference is made in the Officers' Report that the site has a pedestrian entrance off Southwater Way which ties into the proposed realigned footway link to Malinslee. According to Figure 4 there is a newly proposed pedestrian entrance not a realigned footway. The details on this proposal are unclear, and have not been clarified by TWC. Once again access to this site (as it is separated from the town centre) is fundamental, and the application should not be approved without an acceptable access strategy.
- 4.5.16 Page 51 of the Officers' Report states that conditions for traffic and pedestrians will be enhanced by introducing a full traffic signal control that will be integrated with the existing House of Fraser car park traffic signals. In terms of what has been submitted integrating these signals does not appear to enhance conditions for traffic or pedestrians. The work submitted shows a vehicle queue regularly stretching back over the pedestrian crossing.
- 4.5.17 Page 42 of the Officers' Report states that the applicant's traffic modelling undertaken for the application represents the most up-to-date methodology available to TWC, however, it is unclear whether this accounts for the updated work which has recently been completed since this application has gone in. It is unclear if the modelling work is up-to-date or whether it has been checked. It has not been shown whether the development can be accommodated within the highway network. The mitigating highways and

transportation measures identified have not been seen, and this is yet another fundamental issue for this application which has not been clarified, therefore TWC's conclusions on page 59 that traffic movements generated by the development can be accommodated without detriment to the highway safety, cannot be relied upon.

- 4.5.18 With regard to cycling provision it is completely unclear from the application content, whether as required Asda has complied with BREEAM Standards.
- 4.5.19 With regard to servicing arrangements, the Officers' Report suggests that the proposals for service vehicles are sufficient, yet the auto-track layout shows service vehicles having to travel over the centre lining. Also minor changes proposed by the LHA do not appear to address this issue.
- 4.5.20 There are a number of procedural errors with regard to this application in highways terms. Indeed page 56 of the Officers' Report states that a plan led approach has been applied to planning contributions. This approach has also been applied to traffic impact which is incorrect.
- 4.5.21 It is noted that, due to inadequacies in the TA the HA may issue a 'Direction to defer' consideration before the meeting of Plans Board this evening.
- 4.5.22 Public Transport does not appear to be considered at all.

4.6 **Planning Obligations**

- 4.6.1 The report states that as TWC owns the site the avenue of a Section 106 obligation is "*not open to the Plans Board*" and that rather than enter into an agreement with itself "*commitments will be made on behalf of the Council as landowner to abide by the planning "obligations" and, should the land be transferred to make it a condition of that transfer that the new owner will have to enter into a Section 106 agreement to ensure that the obligations bind future owners*".
- 4.6.2 Our comments are as follows:
- (a) a payment of £720,000 is being proposed for unspecified "*major highway schemes*". It is therefore not clear what schemes are going to benefit from this payment or possible to assess whether their delivery is reasonably required by the proposed development and if so whether the payment is enough or excessive;
 - (b) where highway works are required in advance of the opening of the proposed development they should be the subject of planning conditions restricting the opening of the development until they have been completed;
 - (c) in the absence of any reasoned justification for the payment of £720,000 it is not possible to derive the weight that can properly be attached to that factor by members in reaching any decision;
 - (d) as TWC will be aware that extraneous benefits beyond those reasonably required should not be sought by local planning authorities through planning obligations;
 - (e) for these reasons the Officers' Report does not satisfy the appropriate tests to establish the legitimacy of such a contribution which is the absence of such justification gives the appearance of "*planning gain*" being sought for the general financial wellbeing of TWC to spend at its discretion on unspecified works which may or may not be necessary as a result of the development;
 - (f) the lack of detail also prejudices the public in responding to the application and is assessing what the cumulative impacts of the development will be. Unless the

schemes that this contribution is to be spent on are identified and subject to public consultation the full extent of the likely significant effects of the development on the environment cannot be established.

4.6.3 In addition full drafts of the heads of terms and the detailed provisions of the obligations must be made available for public comment by TWC.

4.7 **Proposed Reasons**

4.7.1 The Officers' Report to the Plans Board sets out at page 59 a set of purported reasons for the grant of any permission. The requirement to give reasons arises from Article 22(1) of the General Development Procedure Order 1995 (as amended).

4.7.2 The reasons contained in the request are not, however, adequate and do not comply with the requirements of Article 22(1). They are not stated clearly and precisely, are not full and do not specify all policies and proposals in the development plan which are relevant to the decision. In addition they do not summarize all of the substantial issues which have been raised by the application and consultation upon it.

4.7.3 In addition we would respectfully remind TWC of the need in this case to comply with the requirements for reasons pursuant to Regulation 21 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

5. **CONCLUSIONS**

5.1 The documents referred to above at Sections 2 and 3 of this note and the manner in which they have been taken into account without proper scrutiny, assessment or evaluation by TWC's officers in preparing their the Officers' Report meeting is of serious concern. A detailed review of the representations identifies that there are inconsistencies in the approach adopted by Asda and its professional team in assessing the planning application and that unchecked assertions from Asda's commercial agents have been taken at face value without scrutiny by TWC's planning officers.

5.2 When read in the context of these representations and other matters the clear impression is that TWC is processing the Asda application on a fast track basis and there has been an unacceptable lack of proper public consultation on the application.

5.3 Key to the determination of the Asda application is that this is a proposal for major retail development in an edge of centre site where there remain sequentially preferable and available sites, not least the Red Oak Car Park. In accordance with PPS6, therefore, as well as the adopted local plan the application can only be refused by a local planning authority acting properly.

DRIVERS JONAS/NABARRO LLP
14 DECEMBER 2009